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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,019	12/07/2000	David J. Wilson	2043.060US1	9206
49845 7590 10/18/2007 SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER MANIWANG, JOSEPH R	
			ART UNIT 2144	PAPER NUMBER
			NOTIFICATION DATE 10/18/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

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# Office Action Summary

Application No.

09/731,019

Applicant(s)

WILSON, DAVID J.

Examiner

Joseph R. Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,7,9,11,12,14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7,9,11,12,14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 07/25/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/25/07 has been entered.

### ***Official Notice using MPEP § 2144.03***

2. As previously asserted, the concern for limiting a person/voter with one, and only one vote, has been a concern since the earliest of elections known to mankind. Any discussion of truly democratic proceedings necessarily involves the equivalence of all individuals casting votes or opinions, and the limiting of input from each individual to a single, concrete position.
3. In light of the environment in which the claimed invention operates, it is noted that Internet technology was routinely engaged with gathering input/opinions from users of the network, as clearly and unambiguously described by the prior art of record, both applied and otherwise.
4. Examiner takes Official Notice (see MPEP § 2144.03) that mechanisms for limiting voting/opinion inputs by the same user/person/individual/etc. to a single,

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definitive position, implemented in a computer networking environment was well known in the art at the time the invention was made. While specifics as to how these mechanisms operated are not at issue, there were various well known mechanisms limiting input to a single entry from a particular individual which were common in the art, including, identification of the individual by identification number(s) (inter alia, U.S. Pat. No. 5,950,172, column 10, lines 58-61), filtering by network address (inter alia, U.S. Pat. No. 6,362,837, column 5, lines 51-55), and biometric or other "physical" measurement characteristics to ensure individuality (inter alia, U.S. Pat. No. 5,875,432), column 4, lines 4-8), to name only a few. Another widely common method was requirement for an individual to "login" or otherwise identify themselves to the network so actions could be tracked, recorded, and managed by network administrators. See, inter alia, U.S. Pat. No. 6,772,139, column 17, lines 20-39.

5. Examiner takes further Official Notice that in the current context of voting using Internet technology, the use of error messages was well known in the computing arts. An ordinary artisan would readily recognize that the use of error messages within a computing environment was long established for communicating to a user of a computing system. Furthermore, solely within the voting arts, such use of displaying an error message to a user attempting to vote more than once was clearly known (for example, see U.S. Pat. No. 3,947,669, column 4, lines 5-10).

6. It is noted that if functionality outside the realm of this discussion is being addressed by Applicant, serious issues of enablement under 35 U.S.C. § 112 may arise. Even using any of the above recited mechanisms, there are serious questions

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about how "...indications does not exceed one indication for the review from the user" can be properly ensured, without counting individual hands at a physical meeting of the "users". To determine, over a network, whether a particular "user" has only indicated (i.e., voted, reviewed, etc.) something once (only one time), would have raised some serious questions of actual identification of each distinct [network] user and [potential] verification of this fundamental determination in order to ensure each user only submitted information once. One of ordinary skill in the art would have recognized that undue experimentation would have been required to provide the level of verification seemingly asserted by Applicant in the response, given a direct, literal reading of the claim limitations.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over NOWTHIS.COM (NOWTHIS.COM, blog entry, Nov 24, 1999), hereinafter referred to as Nowthis, in view of Nielsen (U.S. Pat. No. 6,789,075).

9. Nowthis disclosed, specifically, Amazon.com having implemented "x people found this review helpful. Y did not. Was it helpful to you? [YES] [NO]". See page 2. This specifically provided interactive element features as claimed, count tabulation, and

since the sentence references "x people", it can be presumed that each person is entitled to only a single vote, since a second vote from the same person would not increase the number of "people" referenced. However, Nowthis may have been construed not to have expressly recited the provision for "incrementing a count of a stored number of indications for the review if the stored number of indications does not exceed one indication for the review from the user", as claimed. That is, without this presumption that "x people" references distinct, individual persons, the reference may be construed to lack evidence to prove the count was incremented only when a user reviews something for the first time.

10. As discussed above in regard to Official Notice using MPEP § 2144.03, mechanisms for limiting users to a single input were notoriously well known in the art. Since the reference specifically disclosed "x people" (as opposed to "x votes"), the inclusion of functionality to preclude a "people" or "person" to a single submitted entry would have been obvious to one of ordinary skill in the art at the time of invention, since the reference specifically disclosed "Was it helpful to you?" (noting individual questioning), and "X people found this review helpful...Y did not" (noting individually submitted answers). Any minimally skilled information gatherer dealing with surveys, voting, polls, etc, would have been motivated to ensure that the same "person" casting multiple votes be thwarted in order to maintain integrity of the survey, election, poll, etc. Additionally, as further discussed above in regard to Official Notice, the use of error messages within the computing arts as well as the voting arts specifically for the

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purpose of indicating to a user/voter that he/she is attempting to vote twice was well known at the time of the invention.

11. Nowthis does not specifically disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed. However, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

12. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the broadly described Nowthis functionality in use by Amazon.com with any known provision to limit the number of votes from a particular individual to one, and only one, simply in order to maintain integrity of the poll. It would have been further obvious to include a provision for sending an error to a user in the event of the user clicking the interactive element more than once, as such a provision would have been a highly desirable extension to the mechanism of limiting a user to only one vote ensuring the integrity of the voting system. Lastly, it would have been obvious to incorporate the teachings of Nielsen to provide a sorting provision as doing so would have provided the user the more important reviews first, thus providing the user more relevant information (see column 1, lines 13-65).

13. Claims 1-2 and 7-17 are rejected.

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14. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over Epinions (WWW.EPINIONS.COM, Oct 12, 1999), hereinafter referred to as Epinions, in view of Salas et al. (U.S. Pat. No. 6,230,185), hereinafter referred to as Salas, and in further view of Nielsen (U.S. Pat. No. 6,789,075).

15. Epinions taught a method for identifying valuable product/service reviews review(s) as being helpful as evidenced by the "Rating Summary", reporting "Rated Very Useful by:", and "Rated Useful by:", displaying further degrees of usefulness. See pages 9 and 10. The total number of reviews which were available for review by a user was tabulated, and reported, additionally, for each individual degree of usefulness. Since both percentage and actual review voting tabulation was evident, the presence of the number of indications was clearly evident. See prior Office action(s) for particular limitation mapping to the applied art. The provision for an "interactive element" was included in the broad teachings as set forth by Epinions, since the invention operated in a typical GUI, and Internet browser application. The application itself was an interactive element which accepted and effected input from user clients. Since the review, voting, and all other user input came from a user, the "interactive" functionality of the interface is inherent.

16. While Epinions disclosed the invention substantially as claimed, Epinions did not expressly disclose the prohibition of a user to indicate usefulness of a review only once. That is, Epinions did not expressly disclose the incrementing of a count only when "the number of indications does not exceed one indication from the user." However, since Epinions gathered voted opinions and was enabled for usage in a typical Internet



browser application, and utilized well known and widely implemented HTML markup language for presentation dictation, an ordinary artisan would have been motivated to search the related arts to isolate teachings dealing directly with web page technology which disclosed specifics of voting mechanism(s) available at the time of invention.

17. In the same art of network based information gathering from individuals, Salas specifically disclosed a voting/polling mechanism utilized in typical HTML documents acting to optionally limit input from particular user(s) to one (1). See, inter alia, column 16, lines 33-54. Specific limiting of one member to one vote was expressly found at column 16, lines 51-54.

18. Since Epinions was implemented in an Internetworking environment, utilized typical Internet browser end user software for user input, and used HTML to present and gather information with network end users, the modification of the base system as disclosed with the HTML based polling mechanism provided by Salas would have been a matter of routine, and would have been obvious to one of ordinary skill in the art at the time of invention. Minimally, motivation for this modification would have been the implementation of voting features specifically disclosed by Epinions, fully enabled and described by Salas.

19. Furthermore, the modification of the Epinions/Salas teachings to incorporate the provision for sending an error to the user as claimed would have been obvious as such as provision was well known at the time of invention (see above regarding Official Notice). As the Epinions/Salas combination was concerned with a voting/polling system limiting input from a particular user to one vote/input, there would have been clear

motivation for one of ordinary skill in the art to incorporate such a provision in order to further ensure the integrity of the voting system.

20. Lastly, while the combination of Epinions/Salas did not specifically disclose sorting the reviews in ascending/descending order as a function of the number of indicatinos tallied for each review, and sequentially displaying the revies in the sorted order, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41). It would have been obvious to incorporate such a sorting provision in the Epinions/Salas system, the modification being motivated since the sorting provided a user the more important information (i.e., reviews) first (see column 1, lines 13-65).

21. Thus, the reviewing of posted reviews, maintaining the reviews, counts of the reviews, and reviews of the reviews, along with the provision for limiting the number of valid voting opportunities for a particular user was fully disclosed by the combination of Epinions and Salas.

22. Claims 1-2 and 7-17 are rejected.

23. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over Klingman (U.S. Pat. No. 5,950,172), in view of Nielson (U.S. Pat. No. 6,789,075).

24. Klingman disclosed maintaining records of user reviews retrieved over a network (see, inter alia, column 12, lines 9-18), display of these records in order to help users determine whether or not to purchase products/services (see, inter alia, column 4, lines

35-39; column 9, lines 8-198; column 12, lines 9-18; column 16, lines 28-32), incrementing a count of indications (see, inter alia, column 12, lines 9-30), limiting indication(s) to one indication (see, inter alia, column 8, lines 21-27; column 10, lines 58-61; column 23, lines 20-24), and displaying the information (see, inter alia, column 12, lines 9-18; column 22, lines 50-54); sending an error to the user if the interactive element is clicked more than once by the user for the review (see column 11, lines 1-28). Klingman was also disclosed as implemented in a typical networking environment using standard Internet technology. See, inter alia, column 15, lines 49-59.

25. While Klingman disclosed the invention substantially as claimed, Klingman did not expressly disclose the reviewing of reviews. Klingman related to the reviewing of products and services. See, inter alia, column 4, lines 20-28. Klingman specifically disclosed the selective indication of users which were considered "most qualified" to rate the products/services. See, inter alia, column 15, lines 35-47. Thus, an ordinary artisan would have been motivated to explore the related arts for methods for determining which reviews or reviewers were more or less valuable to potential buyers of merchandise.

26. Since Klingman specifically mentions reviews of particular users were more valuable than others (as above, inter alia, column 15, lines 35-47), and the "desirability of a more multi dimensional scoring mechanism" when reliant upon "respondents being mostly from a group of people [had/had no] interest..." (see column 12, lines 31-51), the ordinary artisan would have been motivated to better measure the weight of each review (also see, inter alia, column 12, lines 9-17), and the processing advancements in

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the art to better measure interest in products/services through a wide variety of processing algorithms including review of the review numbers themselves (see column 12, line 64 through column 13, line 31), it would have been obvious to modify the system of Klingman to review the reviews (using the same methodology) in order to better gauge the effectiveness and accuracy of the reviews. See, inter alia, column 13, lines 27-31.

27. Klingman further did not disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed.

28. However, in a related art, Nielsen disclosed ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

29. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teachings of Nielsen to provide a sorting provision as doing so would have provided the user the more important reviews first, thus providing the user more relevant information (see column 1, lines 13-65).

30. Claims 1-2 and 7-17 are rejected.

### ***Response to Arguments***

31. Regarding the rejections under 35 U.S.C. 103(a), Applicant generally asserts that none of the references teach the newly amended limitations requiring (1) sending an error to the user if the interactive element is clicked more than once by the user for the

review; and (2) sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed. To point (1), Examiner submits that the provision to send an error to a user was well known at the time of invention in both the computing arts and the voting arts (see Official Notice above). As it has been established by the Board of Appeals that the concept of one vote per person was well known and obvious, Examiner submits that there is thus clear motivation to incorporate such an error provision in the prior art of record to provide further insurance that one vote per person was maintained. As to point (2), Examiner submits that sorting any information in a computer system, specifically concerning web data, was well known in the prior art at the time of invention, as evident by Nielsen. Modifying the prior art teachings to incorporate the provision for sorting information as claimed would have been obvious as detailed in the above rejections.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Simmons et al. (U.S. Pat. No. 3,947,669)

Baldwin et al. (U.S. Pat. No. 6,038,596)

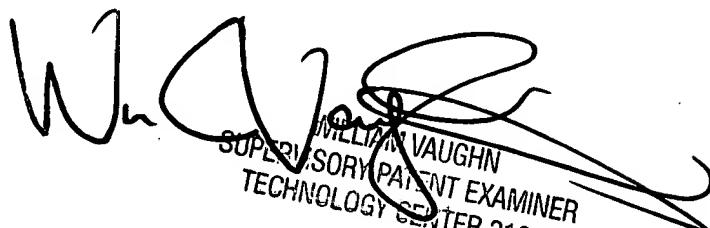
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM

  
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